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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,091	09/19/2003	Frederick James Diggle III	030488	1284
26285	7590	03/17/2005	EXAMINER	
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP 535 SMITHFIELD STREET PITTSBURGH, PA 15222			MEISLIN, DEBRA S	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,091

Applicant(s)

DIGGLE ET AL.

Examiner

Debra S Meislin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 7-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Her (5,086,674).

Note socket body "40", arm "20", hex key tip "51", and an opening "25" to receive a torque arm "80".

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Her in view of Cornia.

Her discloses all of the claimed subject matter except for having a notch in the key tip. Cornia discloses a notch in a key tip "40". It would have been obvious to one having ordinary skill in the art to form the device of Her with a notch in the key tip to enable the device to be driven by a screwdriver as taught by Cornia.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Her in view of Ittel.

Her discloses all of the claimed subject matter except for having an opening extending partially through an arm. Ittel discloses an opening extending partially

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through an arm for receiving a torque member. It would have been obvious to one having ordinary skill in the art to form the opening of Her as extending partially through the arm to receive a torque member as taught by Ittel.

6. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Her in view of Hedden.

Her discloses all of the claimed subject matter except for the tool being formed of metal. Hedden discloses a socket wrench tool being formed of metal. See column 3, line 7 of Hedden. It would have been obvious to one having ordinary skill in the art to form the device of Her out of metal for its known strength properties as taught by Hedden.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Her in view of Arnold.

Her discloses all of the claimed subject matter except for the socket having a plastic sheath. Arnold discloses a plastic sheath/sleeve around the socket. It would have been obvious to one having ordinary skill in the art to form the device of Her with a plastic sheath/sleeve around the socket to allow for added grippability and to facilitate size recognition as taught by Arnold.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Her in view of Cornia as applied above, in further view of Ittel.

Ittel discloses an opening extending partially through an arm for receiving a torque member. It would have been obvious to one having ordinary skill in the art to

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form the opening of Her as extending partially through the arm to receive a torque member as taught by Ittel.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Her in view of Cornia and Ittel as applied above, in further view of Arnold.

Arnold discloses a plastic sheath/sleeve around the socket. It would have been obvious to one having ordinary skill in the art to form the device of her with a plastic sheath/sleeve around the socket to allow for added grippability and to facilitate size recognition as taught by Arnold.

10. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzales, Jr. in view of Her.

Gonzales, Jr. discloses all of the claimed subject matter except for having a torque arm opening. Gonzales, Jr. discloses first and second interconnected socket bodies "12", sockets "13", arms "16", and key tips "14". See figures 1 and 4. Her discloses a socket body "40", arm "20", key tip "51", and an opening "25" in the arm to receive a torque arm "80" (see figures 3 and 4). It would have been obvious to one having ordinary skill in the art to form an arm portion of Gonzales, Jr. with an opening to enable the receipt of a torque arm to provide the socket with torque as inherently taught by Her.

11. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marleau or in view of Her.

Marleau discloses all of the claimed subject matter except for having a torque opening in the arm. Marleau discloses a torque opening in the socket body. Her

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discloses a socket body "40", arm "20", key tip "51", and an opening "25" in the arm to receive a torque arm "80" (see figures 3 and 4). It would have been obvious to one having ordinary skill in the art to form the opening of Marleau in the arm, as opposed to in the socket body, as such would have been an obvious relocation of parts as taught by Her.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marleau or in view of Her, as applied above, in further view of Ittel.

Note that Her discloses a key tip in the form of a hex. It would have been obvious to one having ordinary skill in the art to form the differently sized key tips of Marleau in the form of a hex to enable the engagement of inner hex screws as taught by Her. Ittel discloses an opening extending partially through an arm for receiving a torque member. It would have been obvious to one having ordinary skill in the art to form the opening of Marleau as extending partially through the arm to receive a torque member as taught by Ittel.

13. Claims 8-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, "the second fastener" lacks antecedent basis.

14. Applicant's arguments filed December 16, 2004 have been fully considered but they are not persuasive and are deemed moot in view of the new ground(s) of rejection. In fairness to applicant, this office action is being made Non-Final.

Gonzales Jr. clearly discloses key tips "14", as broadly claimed by applicant. Though the claims are silent as to the function of the key tips, they are certainly capable of engaging fasteners.

Cornia discloses a notch in a key tip "40". Cornia clearly discloses a key tip "40", as broadly claimed by applicant. Though the claims are silent as to the function of the key tips, they are certainly capable of engaging fasteners.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Debra S Meislin
Primary Examiner
Art Unit 3723

March 15, 2005